THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.12161 of 1996

Dated:28.11.2006

Between
1.The Chittoor Dist. Coop.Central
Bank Employees Association rep. By
Its General Secretary, Sivasankar Reddy
And others.

.....Petitioner

and

1.The Chittoor Dist Co-op Central
Bank Ltd., rep., by its General
Manager, Chittoor and another.

…Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.12161 of 1996

ORDER:

This writ petition is filed seeking a Mandamus to declare the proceedings in Rc No. ACCT II/93-94 dated 17.6.1993 and Rc.No.30/92-93 dated 10.3.1993 respectively as arbitrary and illegal and violative of Clause 14 of the settlement dated 4.2.1981 arrived at under Section 12 (3) of the Industrial Disputes Act, 1947 (for short ' the Act').

All the petitioners were appointed to the category-V i.e., clerks in the 1st respondent Bank. It appears that there was settlement arrived at under Section 12 (3) of the Act on 4.3.1981 between the 2nd respondent representing all the

Co-operative Banks in the State including the 1st respondent and the A.P. Bank Employees Federation representing the employees of all 26

Cooperative Central Banks in the State. It was agreed between the parties that special increments will be paid as specified in item No. XIV of the agreement. According to the petitioners, item No. XIV contemplates granting of two increments to all the employees in category-V, if they become graduates or if they are graduates already. According to the petitioners, by the time they joined the service, they were already graduates. But the said benefit of granting two increments under item No. XIV of the settlement was not extended to the petitioners. Hence, the writ petition.

A detailed counter has been filed by the 1st respondent-Bank denying all the allegations made by the petitioners. It is stated that it is a fact that a settlement was arrived at under Section 12 (3) of the Act on 4.3.1981 between the 2nd respondent and all 26 DCCBs in the State. It was agreed that two special increments will be paid to all the employees in category-V if they become graduates or if they are graduates already. Further, it is stated that the said incentive will be given to the

graduates already working in the Bank. The minimum educational qualifications for category-V posts was Intermediate prior to 1979. Hence, with a view to encourage the employees working in category-V and to improve their efficiency, the said settlement was arrived on 4.3.1981 whereunder the incentive scheme was introduced. After 1979, the minimum educational qualification for category-V post is Graduation. Hence, there is no question of giving any incentive as contemplated under settlement dated 4.3.1981 to the employees recruited to the category-V posts after 1979 who acquired graduation qualification subsequently or already possessed graduation qualification by 4.3.1981. Further, the petitioners made a representation on 7.6.1992 requesting for grant of increments as per settlement dated 4.3.1981. They clarified by their letter dated 10.3.1993 stating that item No.XIV of the agreement will apply only to the employees recruited prior to amendment of bye-laws but not to the employees appointed subsequent to the amendment. Accordingly, the

petitioners were informed by letter dated 17.6.1993 that they are not eligible to get the incentive increments provided under agreement dated 4.3.1981. Therefore, there is no illegality or arbitrariness on the part of the respondents in not granting incentive increments to the petitioners.

The agreement dated 4.3.1981 under Section 12 (3) of the Act is not in dispute, and the granting of two incentive increments to the person who has become graduate or already a graduate in the category-V in the services of the Bank, is also not dispute. May be the petitioners, by the time of their appointment, which is much prior to the settlement, are graduates, but it cannot be said that the settlement under Section 12 (3) of the Act has no application to the employees those who have already obtained graduation. Therefore, the settlement under Section 12 (3) of the Act is in force. The petitioners are entitled to two incentive increments as contemplated therein.

The said item No. XIV of the settlement dated 4.3.1981 reads as under:

"All employees in Category-V will be paid two increments in the grade if they become graduates or if they are graduates already. One special increment will be paid for passing CAIIB Part-I, two increments for passing CAIIB Part-II.

After reaching the maximum in the scale on account of educational qualifications, the employees will be paid special allowance as follows:

Rs.6/- after they have completed 1 year

Rs.12/- after they have completed 2 years

Rs.18/- after they have completed 3 years

Rs.24/- after they have completed 4 years)(After reaching

Rs.30/- after they have completed 5 years)(20th stage of

the

scale)

Subject to the following limits:

Rs.12/- for those who are graduates and

6/- for those who have passed Part-I CAIIB

18/- for those who passed Part-I and II of CAIIB

30/- for those who are graduates/and have passed

Part I and II of CAIIB."

No settlement arrived at under Section 12 (3) of the Act can be tinkered with by way of any clarification issued by the Union or the Management. So long as the settlement is in force, the management is supposed to implement the

same in its true spirit.

In view of the above, the writ petition is allowed and the impugned order is set aside. No costs.

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28-11-2006

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